

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOHN RICHARD GIBSON,)	1:05-CV-00042 AWI LJO HC
)	
Petitioner,)	ORDER WITHDRAWING AUGUST 22, 2005,
)	FINDINGS AND RECOMMENDATION
v.)	THAT RECOMMENDED THE PETITION BE
)	DISMISSED
)	[Doc. #36]
LEA ANN CHRONES, Warden,)	
)	
Respondent.)	

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On August 22, 2005, the undersigned issued Findings and Recommendation that recommended the petition be DISMISSED for failure to state a claim and for untimeliness. The Findings and Recommendation was served on all parties and contained notice that any objections were to be filed within thirty (30) days of the date of service of the order.

On August 29, 2005, Petitioner filed objections to the Findings and Recommendation. The undersigned notes that the case of Sass v. California Board of Prison Terms, 376 F.Supp.2d 975 (E.D. Cal. 2005), has been appealed to the Ninth Circuit Court of Appeals. According to the Ninth Circuit's docket, the matter was argued and submitted on March 16, 2006.

1 The undersigned hereby WITHDRAWS the Findings and Recommendation issued on August
2 22, 2005. By separate order, a new Findings and Recommendation will be issued.

3 IT IS SO ORDERED.

4 **Dated: August 22, 2006**
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/s/ Lawrence J. O'Neill
UNITED STATES MAGISTRATE JUDGE